

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRYAN ALLEN CARY,

Plaintiff,

v.

Civil No. 24-cv-10488

Hon. Matthew F. Leitman

ARF RTP STAFF,

Defendants.

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**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT  
AND RECOMMENDATION (ECF No. 27) AND (2) DENYING  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT (ECF No. 18)**

Plaintiff Bryan Allen Cary is a state inmate in the custody of the Michigan Department of Corrections (the “MDOC”). In this action, Cary brings a civil-rights claim against two employees of the MDOC. (*See* Compl., ECF No. 1; Am. Compl., ECF No. 7.) Cary appears to allege that the Defendants wrongly assigned him to a top bunk despite knowing that doing so could be dangerous to Cary’s health. (*See id.*)

On August 8, 2024, Defendants filed a motion for summary judgment based on Cary’s alleged failure to exhaust his administrative remedies against them before he filed this action. (*See* Mot., ECF No. 18.) The motion was referred to the assigned Magistrate Judge. (*See* Order, ECF No. 12.)

On December 12, 2024, the Magistrate Judge issued a report and recommendation in which he recommended that the Court deny the motion (the “R&R”). (*See* R&R, ECF No. 27.) The Magistrate Judge then informed the parties that if they wished to file an objection to his recommendation, they needed to do so within fourteen days. (*See id.*, PageID.254.)

Defendants have not filed any objections to the R&R. Nor have the Defendants contacted the Court seeking additional time to file objections. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). *See also Ivey v. Wilson*, 832 F.2d 950, (6th Cir. 1987) (where party fails to file “timely objections” to report and recommendation, court may accept that recommendation “without expressing any view on the merits of the magistrate’s conclusions”). Likewise, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because the Defendants have not filed any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge’s recommended disposition of Defendants’ summary judgment motion is **ADOPTED**.

**IT IS FURTHER ORDERED** that Defendants' motion for summary judgment (ECF No. 18) is **DENIED**.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: January 7, 2025

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 7, 2025, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126